

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 HARD DRIVE PRODUCTIONS, INC.,) Case No.: 11-CV-03682-LHK
11 Plaintiff,)
12 v.) ORDER TO SHOW CAUSE
13 DOES 1-166,)
14 Defendant(s).)
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16 Plaintiff Hard Drive Productions, Inc. (“Plaintiff”) filed the complaint in this matter on July
17 27, 2011. ECF No. 1. Plaintiff alleges that at least one hundred and sixty-six unknown Defendants
18 knowingly and willfully infringed its copyright by downloading and sharing its copyrighted work
19 using an online peer-to-peer file-sharing tool called BitTorrent. *See id.* On August 2, 2011,
20 Plaintiff filed an *ex parte* application for leave to take limited discovery prior to a Rule 26
21 conference. ECF No. 5. Magistrate Judge Howard R. Lloyd granted this application on August 5,
22 2011, permitting Plaintiff to serve subpoenas on certain Internet Service Providers (“ISPs”) to
23 obtain information identifying the Doe Defendants so that Plaintiff could complete service of
24 process on them. ECF No. 7 at 4-5. Magistrate Judge Lloyd’s order allowed Plaintiff to
25 immediately serve subpoenas on ISPs to obtain identifying information for each Doe Defendant,
26 including name, address, telephone number, email address, and media access control information.
27 *Id.* at 4-5. The order gave the ISPs 30 days to serve subscribers and gave subscribers 30 days from
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1 the date of service in which to object to the subpoenas. *Id.* at 5. If the subscriber failed to object,
2 the ISP was required to produce, within 10 days, the information responsive to the subpoena to
3 Plaintiff. *Id.* Thus far, seven motions to quash subpoena have been filed. *See* ECF Nos. 9, 11, 16,
4 17, 24, 25, 42.

5 Federal Rule of Civil Procedure 4(m) requires a plaintiff to serve a defendant within 120
6 day after filing the complaint. A court must dismiss a case without prejudice if a plaintiff has not
7 complied with Rule 4(m), unless the plaintiff shows good cause for its failure to serve defendant.
8 Fed. R. Civ. P. 4(m). Pursuant to Rule 4(m), Plaintiff was required to file proof of service by
9 November 25, 2011. Plaintiff did not. As of today, February 7, 2012, Plaintiff has still not filed
10 proof of service as to any of the Doe Defendants. 195 days have now passed since the filing of the
11 original complaint, and 187 days have passed since Magistrate Judge Lloyd's Order authorizing
12 expedited discovery.

13 Accordingly, the Court ORDERS Plaintiff to show cause by February 29, 2012, why this
14 action should not be dismissed for failure to serve the Doe Defendants as required by Rule 4(m).
15 *See, e.g., Patrick Collins Inc. v. Does 1-1219*, No. 10-04468-LB (N.D. Cal. Aug. 29, 2011) (Beeler,
16 M.J.) (issuing order to show cause). The Court will hold a hearing on Plaintiff's response on
17 March 14, 2012, at 2:00 p.m. The case management conference currently set for February 15,
18 2012, is hereby continued to March 14, 2012, at 2:00 p.m., to coincide with the hearing on
19 Plaintiff's response to this Order to Show Cause.

20 **IT IS SO ORDERED.**

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22 Dated: February 8, 2012


23 LUCY H. KOH
24 United States District Judge
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